

Aboriginal Land Amendment Regulation (No. 7) 2013

Explanatory notes for SL 2013 No. 299

made under the

Aboriginal Land Act 1991

General Outline

Short title

Aboriginal Land Amendment Regulation (No. 7) 2013.

Authorising law

Section 10(1)(e) of the Act provides for available State land to be declared by regulation to be transferable land.

Policy objectives and the reasons for them

The regulation amends the *Aboriginal Land Regulation 2011* to declare areas of available State land as transferable land.

The regulation of the available State land as transferable land will allow for the eventual grant of inalienable freehold title to Aboriginal people under the Act.

Charleville – unallocated State Land

On 2 July 2012, the Department of Natural Resources and Mines (the department) received an Indigenous expression of interest in having particular land in Charleville made transferable land in accordance with Part 3 of the Act. The land, described as Lot 11 on CP897433 and Lot 13 on SP112767, is located approximately 700 kilometres west of Brisbane, and has a total area of 277.81 hectares.

Under Part 3 of the Act, Aboriginal people may formally express an interest in having particular land made transferable land. The chief executive of the department must consider each expression of interest and may do so by evaluating the land to which it relates under section 16 of the *Land Act 1994* (Land Act) to determine the lands most appropriate use and tenure.

The department carried out an evaluation of the land under section 16 of the Land Act which recommended the most appropriate use for the subject land as being for Aboriginal Cultural/Community use.

The chief executive taking into consideration the recommendation on the most appropriate use, as it relates to the expression of interest, has approved that the land be made transferable land.

Charters Towers – unallocated State Land

On 30 September 2012, the department received an Indigenous expression of interest in having particular land in Charters Towers made transferable land in accordance with Part 3 of the Act. The land, described as Lot 4 on MPH20728 and Lot 504 on MPH20441, is located approximately 110 kilometres south-west of Townsville, and has a total area of 4.046 hectares.

Under Part 3 of the Act, Aboriginal people may formally express an interest in having particular land made transferable land. The chief executive of the department must consider each expression of interest and may do so by evaluating the land to which it relates under section 16 of the Land Act to determine the lands most appropriate use and tenure.

The department carried out an evaluation of the land under section 16 of the Land Act which recommended the most appropriate use for Lot 4 on MPH20728 is Community purpose – Indigenous use, due to the presence of Aboriginal graves, and Lot 504 on MPH20441 is Rural Residential. The report acknowledged that the exact location of the Aboriginal graves on Lot 4 on MPH20728 is undetermined and that additional areas may also be appropriate for the ongoing cultural use of the area by Aboriginal people.

The chief executive taking into consideration the recommendations on the most appropriate use, as they relate to the expression of interest, has approved that the land be made transferable land.

Achievement of policy objectives

The regulation will achieve its objectives by the declaration of the subject land as transferable land, which will allow for the grant of inalienable freehold title to the Aboriginal people under the Act.

Consistency with policy objectives of authorising law

The regulation is consistent with the policy objectives of the Act, which provide for the grant of land as Aboriginal land.

Inconsistency with policy objectives of other legislation

The regulation is consistent with the policy objectives of other legislation. The regulation will enable the subsequent transfer of land as Aboriginal land under the Act and the Land Act.

Benefits and costs of implementation

The benefit of the regulation is that it will allow for the grant of land as Aboriginal land. Implementing the regulation will have negligible costs.

Consistency with fundamental legislative principles

The regulation is consistent with fundamental legislative principles. It complies with relevant requirements of section 4(5) of the *Legislative Standards Act 1992*, namely it:

- (a) is within the power that, under an Act or subordinate legislation (the authorising law), allows the subordinate legislation to be made; and
- (b) is consistent with the policy objectives of the authorising law; and
- (c) contains only matter appropriate to subordinate legislation; and
- (d) amends statutory instruments only.

Consultation

In respect of the Charleville and the Charters Towers unallocated State lands, the government consulted extensively with stakeholders and other interested parties in evaluating the most appropriate use and tenure of these lands, and for the proposed regulation and the subsequent actions. Parties included State government agencies and the local authority. Submissions raised no objection to dealing with the land under the Act, however one party for the Charters Towers unallocated State land sought an alternative use for the land. All submissions were taken into consideration in the most appropriate use and tenure evaluation.